

In re: Jose Villena et al.
Filed: December 7, 1999
Serial No.: 09/456,166
Page 8

REMARKS

Applicant appreciates the Examiner's review of the above-identified application and respectfully requests reconsideration and allowance in view of the above amendments, following remarks, and the enclosed declaration under 37 CFR § 1.131 and declaration under 37 CFR § 1.132. Claims 1-15 are pending.

The Examiner has objected to the drawings and has required that formal drawings be filed. Enclosed, please find pages 1-3 of Figures 1-3. Applicant respectfully submits that the enclosed Figures comply with all applicable rules.

Claims 1-15 have been rejected under 35 U.S.C. §112. With this amendment, Applicant has amended claims 1, 3 and 4 to correct the antecedent basis problems. Applicant respectfully submits that claim 2 has proper antecedent basis. Claim 2 recites a plurality of switching apparatus of the type represented by switch 1 as stated by the Examiner. Accordingly, Applicant respectfully submits that claim 2 has proper antecedent basis. For the foregoing reasons, Applicant respectfully submits that claims 1-15 are in condition for allowance.

Claims 1-15 have been rejected under 35 U.S.C. §112, 1st paragraph, as containing subject matter which was not described in

the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the invention was filed, had possession of the claimed invention. In particular, the Examiner notes that nowhere in the specification is it described how the CCPRO works. Applicant respectfully traverses this rejection.

MPEP § 2163(A) states "There is a strong presumption that an adequate written description of the claimed invention is present when the application is filed. *In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976) ("We are of the opinion that the PTO has the initial burden of presenting evidence or reasons why a person skilled in the art would not recognize any disclosure in a description of the invention defined by the claims")."

Applicant respectfully submits that the above-identified application describes the claimed invention in sufficient detail that one skilled in the art would reasonably conclude that the inventor had possession of the claimed invention. Applicant further submits that the operation of the CCPRO is conventional in the art and is known to one of ordinary skill in the art. Applicant respectfully submits that the CCPRO is a well-known product. In support of this, enclosed herein is a Declaration

under 37 CFR § 1.132 of Eyal Ben-Chanoch as well as an article released in June 1999 by Tern Systems. The article by Tern Systems describes what a CCPRO switch and how it works. Accordingly, Applicant respectfully submits that the CCPRO is in the conventional art and is known to one of ordinary skill in the art and requests that the rejections of claim 1-15 under 35 U.S.C. §112, 1st paragraph, is improper.

Claims 1 and 14 Claim has been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,389,132 to Price. Claims 2-3, 6-7, 9, and 12-15 have been rejected under 35 U.S.C. §103(a) as being obvious over Price. Claims 4-5 and 8 have been rejected under 35 U.S.C. §103(a) as being obvious over Price as applied to claim 1 and further in view of U.S. Patent No. 6,005,920 to Fuller et al. Claims 10-11 have been rejected under 35 U.S.C. §103(a) as being obvious over Price as applied to Claim 9 and further in view of U.S. Patent No. 6,473,505 to Kuhc. Applicant respectfully traverses these rejections.

Pursuant to 37 C.F.R. §1.131, Applicants hereby submit herein a Declaration of the inventor Eyal Ben-Chanoch of the above-identified application to swear behind the patent to Price relied on by the Examiner as a primary reference in the rejection of

In re: Jose Villena et al.
Filed: December 7, 1999
Serial No.: 09/456,166
Page 11

claims 1-15 under 35 U.S.C. §102 and §103. As stated in the declaration and supported by the attached exhibit, the invention claimed in the present application was conceived in the U.S. prior to October 13, 1999, the filing date of the Price patent. Moreover, the conception of the invention prior to the effective date of the reference is coupled with due diligence from prior to that date to the following date on December 7, 1999 of the present application.

Accordingly, Applicant respectfully submits that this declaration effectively swears behind the patent to Price and overcomes the rejections of claims 1-15 under 35 U.S.C. §102 and §103 based on the patent to Price.

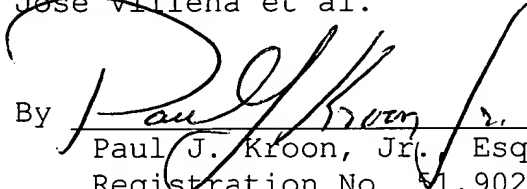
The examiner is invited to telephone the undersigned, applicant's attorney of record, to facilitate advancement of the present application.

In re: Jose Villena et al.
Filed: December 7, 1999
Serial No.: 09/456,166
Page 12

Respectfully submitted,

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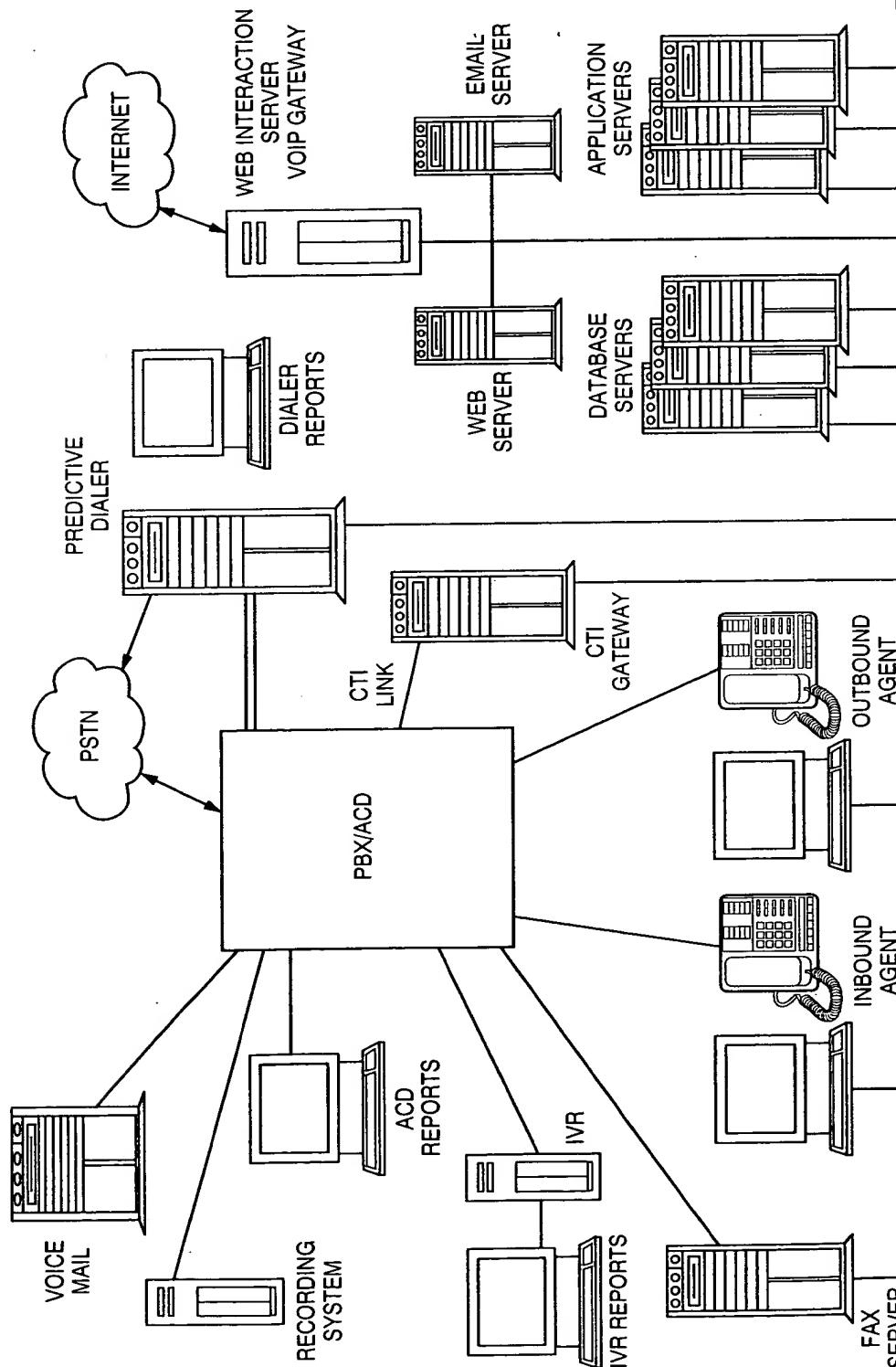


FIG. 1
(PRIOR ART)

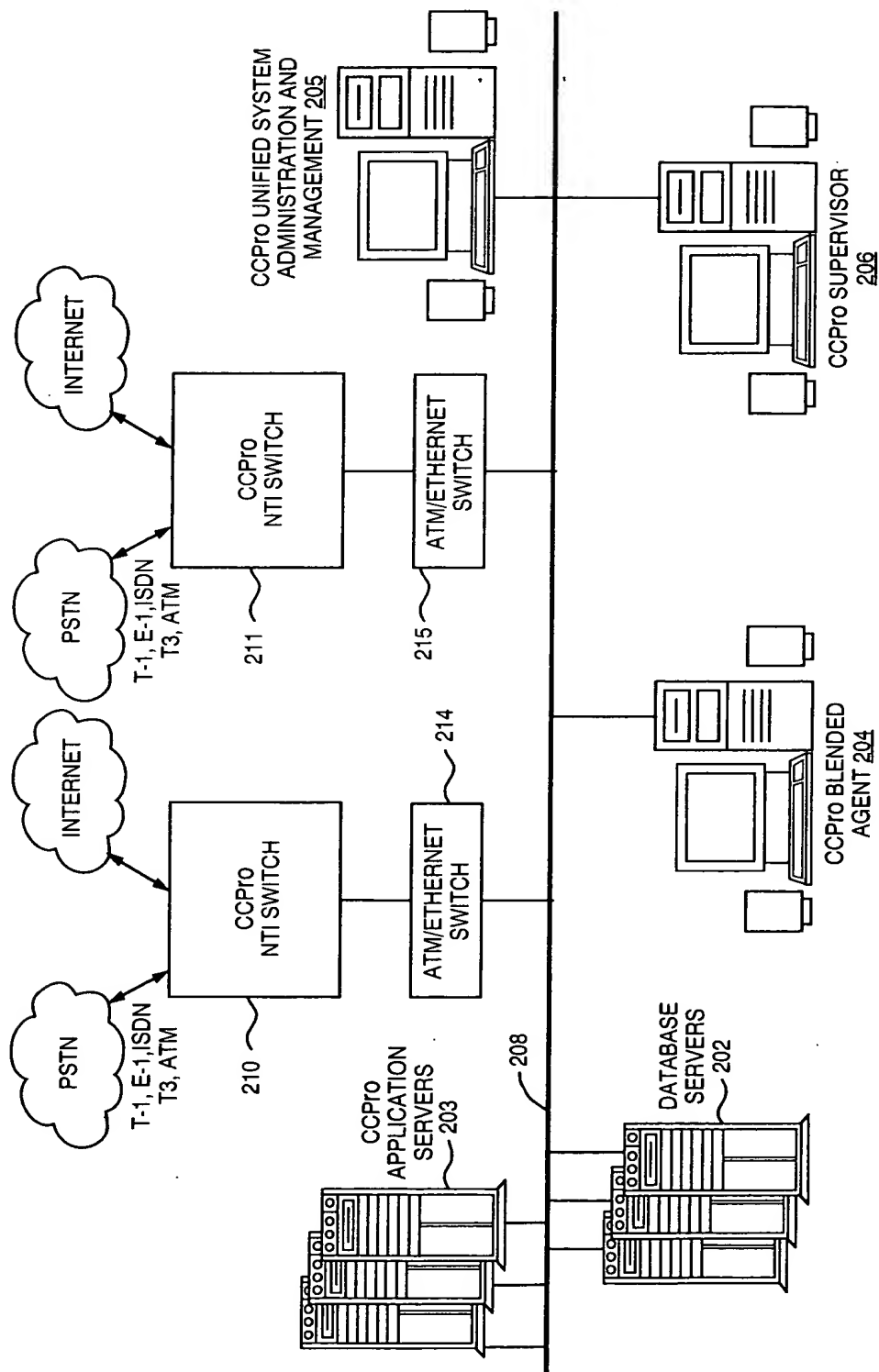


FIG. 2



3/3

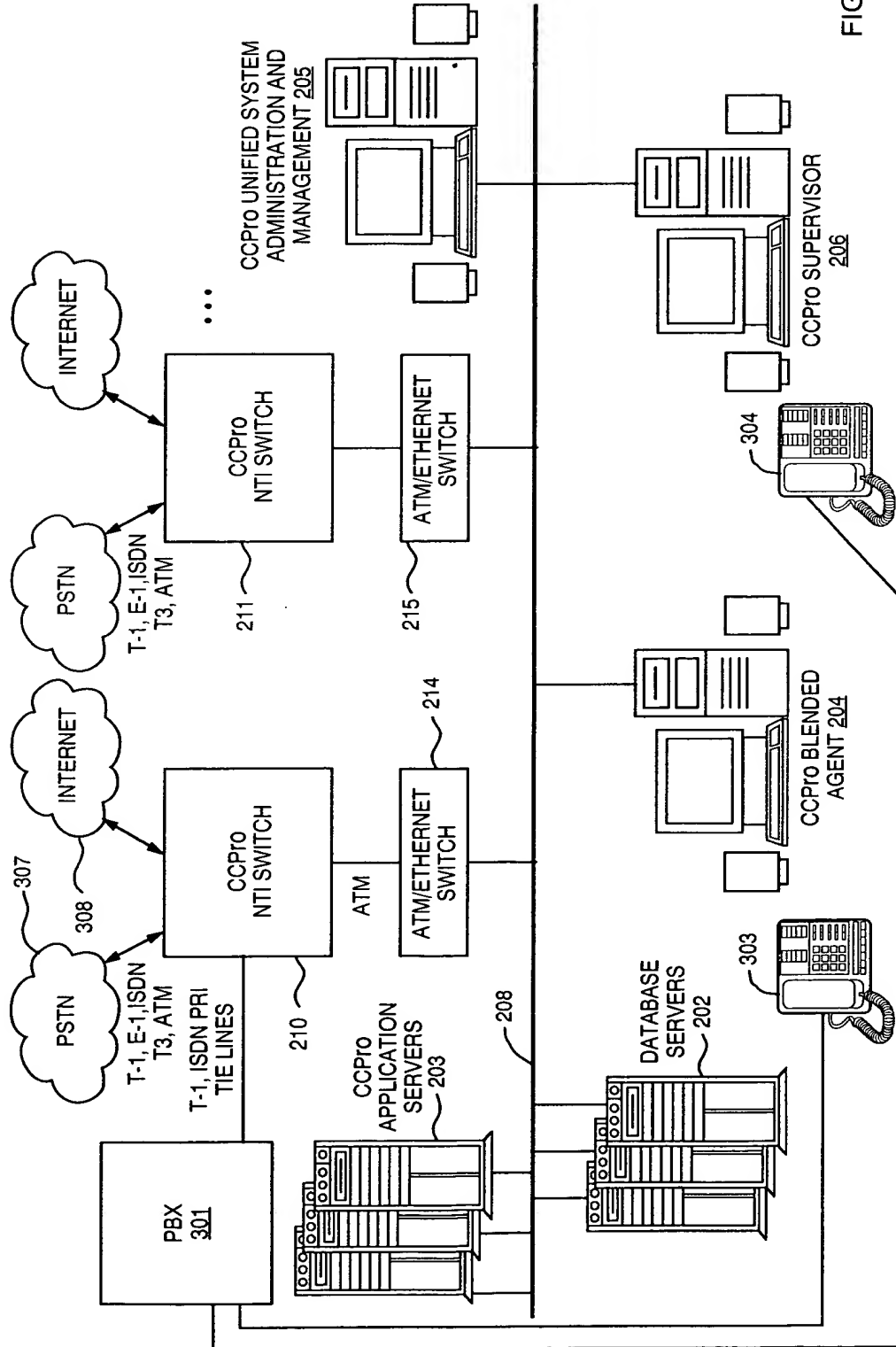


FIG. 3